IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 10834 of 2007(M)

PETITIONER:

M/S.BHARATH DISTILLERIES LTD.,
SDF HOUSE, N.H.BYPASS ROAD,
CHANDRANAGAR, PALAKKAD REPRESENTED BY
C.A.PRADEEP, REGIONAL MANAGER.

BY ADV. SRI.ARIKKAT VIJAYAN MENON

RESPONDENTS:
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1. **COMMERCIAL TAX OFFICER,**
   SECOND CIRCLE, PALAKKAD.

2. **DEPUTY COMMISSIONER OF COMMERCIAL**
   TAXES (APPELAS), SALES TAX COMPLEX,
   ERNAKULAM.

3. **KERALA STATE BEVERAGES (MANUFACTURING &**
   MARKETING) CORPORATION LTD., SASTHAMANGALAM,
   THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ
BY ADV. SRI.K.P.DANDAPANI (SR) – R3.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.10834/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ASSESSMENT ORDER ISSUED BY 1ST RESPONDENT FOR 03-04.

EXT.P2:- COPY OF THE ASSESSMENT ORDER ISSUED BY 1ST RESPONDENT FOR 04-05.

EXT.P3:- COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT FOR 03-04.

EXT.P4:- COPY OF THE APPEAL FILED BEFORE THE 2ND RESPONDENT FOR 04-05.

EXT.P5:- COPY OF THE JUDGMENT IN WP(C) NO.2418/07 OF THIS HONOURABLE COURT .

EXT.P6:- COPY OF THE APPLICATION FILED BEFORE THE 1ST RESPONDENT.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.10834 of 2007-M

Dated this the 29th day of March, 2007

JUDGMENT

The petitioner is a distillery. In view of the decisions of this Court and the Apex Court, it is liable to pay tax on its turnover for the Indian Made Foreign Liquor supplied by the Beverages Corporation with effect from 5-1-1999. This writ petition was filed praying for instalment facility to pay the amounts demanded under Ext.P1 and P2, towards tax on turnover. But, the petitioner has already been granted instalment facility by G.O.(Rt) No.760/2006/TD on 5-12-2006. The petitioner submits, it was not aware of that Government Order and it is prepared to pay the entire arrears with interest subject to that condition.

2. The learned Government Pleader, upon instruction, submitted that the said prayer of the petitioner can be granted.

3. The petitioner may pay the defaulted instalment as per the above-said Government Order with interest within two weeks from today. The balance monthly instalment shall be paid as provided in the Government Order without fail. If the payments are made as directed, coercive steps to recover the amounts due under Exts.P1 and P2 shall not be enforced. The petitioner may work out his claim, raised against the third respondent. All

the contentions of the petitioner are left open.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS